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## Final Regulation Agency Background Document

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| <b>Agency name</b>                                 | Child Day-Care Council                                   |
| <b>Virginia Administrative Code (VAC) citation</b> | 22VAC 15-10  |
| <b>Regulation title</b>                            | Public Participation Guidelines                          |
| <b>Action title</b>                                | Improve Clarity and Implement Recent Legislative Changes |
| <b>Date this document prepared</b>                 | October 26, 2006   |

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.*

This regulation sets forth the procedures the Child Day-Care Council uses to obtain public input when developing, revising or repealing a regulation. This regulation covers the following topics: petitions from interested parties, solicitation of input, public hearings, and withdrawal of regulations. The proposed regulation provides for electronic transmission of information and incorporates recent statutory changes.

No changes have been made to the regulation from publication of the proposed regulation to the final regulation.

### Statement of final agency action

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

The Child Day-Care Council approved the final regulation 22 VAC 15-10, *Public Participation Guidelines*, on November 9, 2006.

## Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

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Section 2.2-4007 D. of the Code of Virginia mandates that the Child Day-Care Council promulgate this regulation. Section 63.2-1735 of the Code of Virginia vests the Child Day-Care Council with the authority to promulgate regulations for licensure and operation of child day centers in the Commonwealth.

The Office of the Attorney General has certified that the Child Day-Care Council has the authority to promulgate this regulation and that it comports with applicable law.

## Purpose

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

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This regulation establishes the procedures by which the Child Day-Care Council will solicit input from persons interested in the adoption, amendment or repeal of regulations under its administration, management or supervision. The Virginia Administrative Process Act requires that this regulation be adopted before the Child Day-Care Council can adopt, amend or repeal any other regulation. This regulation will allow the Council to fulfill the statutory mandates of § 63.2-1735 of the Code of Virginia, which includes adopting regulations for the licensure and operation of child day centers in the Commonwealth and adopting regulations in collaboration with the Virginia Recreation and Park Society and the Department of Mental Health, Mental Retardation and Substance Abuse Services for therapeutic recreation programs.

The Child Day-Care Council has promulgated three regulations to administer programs for the licensure and operation of child day centers. The intent of these programs is to protect and ensure the health, safety and welfare of persons utilizing child day care services throughout the Commonwealth.

The goal of these amendments is to increase participation, reduce cost and improve the speed of communication through the electronic transmission of public comment and to make editorial changes to the regulation to improve its clarity.

## Substance

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.*

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This regulatory action provides for the electronic transmission of information to include e-mail notifications, receipt of public comment by e-mail and use of the internet for dissemination and collection of comment on regulatory actions. The action also incorporates recent statutory changes that pertain to public participation in the regulatory process.

Section 22 VAC 15-10-40 is amended to reflect the provisions of Chapter 241, 2002 Acts of Assembly. Section 22 VAC 15-10-50 is amended to reflect the statutory changes to Chapter 717, 1995 Acts of Assembly which make publication of proposed regulations in a newspaper of general circulation discretionary rather than mandatory.

**Issues**

*Please identify the issues associated with the proposed regulatory action, including:*  
1) *the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*  
2) *the primary advantages and disadvantages to the agency or the Commonwealth; and*  
3) *other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.*

This regulatory action benefits the public by providing individuals and regulated entities with guidelines specifying how they may participate in the development, adoption, amendment or repeal of the Child Day-Care Council’s regulations. The *Public Participation Guidelines* benefit the Commonwealth by empowering the Child Day-Care Council to fulfill the statutory mandate contained in § 63.2-1735 of the Code of Virginia to promulgate regulations for licensure and operation of child day centers in the Commonwealth and adopt regulations in collaboration with other entities for therapeutic recreation programs.

This regulation creates no known disadvantage to the public or the Commonwealth.

**Changes made since the proposed stage**

*Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.*

No changes were made to the text of the proposed regulation since the publication of the proposed stage.

**Public comment**

*Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.*

No public comment was received.

**All changes made in this regulatory action**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.*

| Current section number             | Proposed new section number, if applicable | Current requirement   | Proposed change and rationale  |
|------------------------------------|--|---|--|
| 40                                 |  | Specifies that the council or the department may respond to a petition for rulemaking.                              | Specifies that the Council shall meet the new requirements of § 2.2-4007 (Chapter 241, 2002 Acts of Assembly) and that only the Council is authorized to respond to a petition for rulemaking.   |
| 50, subsections E., F., G., and H. |  | States that the Child Day-Care Council takes certain actions.   | Clarified that certain actions are taken by the Department of Social Services on behalf of the Child Day-Care Council.   |
| 50, subsection H.                  |  | Requires only the filing of a notice of intended regulatory action with the Registrar of Regulations.               | Requires the filing of a notice of intended regulatory action with the Registrar of Regulations and distribution to persons on the interested parties' lists.  |
| 50, subsection I.                  |  | Mandates the publication of a proposed action in a newspaper of general circulation published at the state capital. | Makes discretionary the publication of a proposed action in any newspaper as determined by the Child Day-Care Council (Chapter 717, 1995 Acts of Assembly).  |
| 50, subsection J.                  |  |   | Adds a new provision that the Child Day-Care Council shall consider the comment received during the proposed public comment period in approving a final regulation and that the Department of Social Services shall provide the comment received to the Council. |
| 50, subsection K.                  |  |   | Adds a new requirement the Department of Social Services to prepare a summary of all public comment received during the proposed comment period and to make it public.   |

This regulatory action makes editorial changes throughout the regulation to improve clarity. Section 22 VAC 15-10-40 will be amended to reflect the provisions of Chapter 241, 2002 Acts of Assembly. Section 22 VAC 15-10-50 will be amended to reflect the statutory changes of Chapter 717, 1995 Acts of Assembly which make publication of proposed regulations in a newspaper of general circulation discretionary rather than mandatory.

**Regulatory flexibility analysis**

*Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

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This regulation is specifically mandated by § 2.2-4007 D. of the Code of Virginia. Other alternatives are not an option. This regulation will have no known adverse impact on small businesses.

### Family impact

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

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The amendments to this regulation will enhance the opportunities for public participation in the process of developing, adopting, amending and repealing Child Day-Care Council regulations with the goal of increasing the amount of information the Council will have available in making decisions regarding the licensure and operation of child day centers and therapeutic recreation programs in the Commonwealth. The goal of this regulatory action is to provide the Council with increased input from the public and regulated entities so that the Council may better consider the interests and concerns of families and regulated entities when promulgating and approving regulations. This regulatory action acknowledges parental rights and authority in the education, nurturing, and supervision of their children. It has no negative impact on economic self-sufficiency, self-pride, the assumption of personal responsibility, family income, or marital commitment.